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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/732,946 | 12/11/2003 | Mary S.R. Williams | 121894.00002CIP | 7264 |
| 34282 | 7590 | 06/15/2007 | | |
| QUARLES & BRADY LLP ONE SOUTH CHURCH AVENUE, SUITE 1700 TUCSON, AZ 85701-1621 | | | EXAMINER RICHMAN, GLENN E | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3764 | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

ED

Office Action Summary

Application No.

10/732,946

Applicant(s)

WILLIAMS, MARY S.R.

Examiner

Glenn Richman

Art Unit

3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 April 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The rejection from the prior office action is maintained and incorporated by reference.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lekhtman et al.

Lekhtman et al disclose providing a three-dimensional platform (3), said platform having a top surface connected to a bottom surface by a resilient means for providing resistance to a pushing force applied by a user (fig. 1).

Lekhtman et al does not specifically a relative energy return of between 0.53 and 0.59, however, as Lekhtman et al discloses an adjustable spring rate (col. 2, lines 27-42), it would have been obvious that Lekhtman et al's relative energy return could be adjusted to achieve the same rate.

Lekhtman et al further discloses positioning a limb of a seated user upon the top Surface (fig. 1); and c. treading the limb upon the top surface such that cycles of compression and restitution are achieved (fig. 1), the platform is sized to fit in the space provided underneath an airline seat (fig. 1), the platform is reversibly compressible to

approximately 30- 60% of an uncompressed height of the platform (col. 2, lines 27-42), the top surface of the platform is sloped (fig. 1).

Claims 7-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lekhtman et al. in view of Mason et al.

Lekhtman et al do not disclose a filled bladder for providing resistance to a pushing force applied by a user

Mason et al disclose a filled bladder for providing resistance to a pushing force applied by a user (col. 2, lines 56-59).

It would have been obvious to use Mason et al's bladder, with Lekhtman et al's platform, as it is well known to use a bladder, as taught by Mason et al, for providing a resistance to the pushing force of a user.

As for the various species of claims 13-20, they are all obvious variants of means for filling a bladder, and are within the scope of Mason et al's bladder.

Response to Arguments

Applicant's arguments filed 4/4/07 have been fully considered but they are not persuasive.

As to the applicant's arguments.

The Lekhtman patent teaches a "spring shoe" having "foot receiving members" (col. 1, lines 41-42) that are worn on the feet of a user (col. 2, lines 5-9) and are especially adapted for jogging or running (col. 4, lines 4-7). However, all claims of the present invention recite "a seated user" "treading [a] limb upon the top surface" of a

"three-dimensional platform such that cycles of compression and restitution are achieved."

1. The applicant respectfully submits that a seated user of Lekhtman's spring shoes would not reasonably have the ability to tread her foot upon the spring, but, instead, would have to lift and drop the entire shoe to put any force on the spring member. Also, a seated user would find it very difficult, if not impossible, to achieve cycles of compression and restitution through treading a foot (as opposed to standing and putting the user's weight upon the spring).

As to 1 above, it is obvious to one skilled in the art, that Lekhtman's could provide a force from the seated position, and that cycles of compression and restitution would also be possible, as admitted in arguments ("very difficult"), though not necessarily very difficult, given the adjustability of the Lekhtman's springs.

2. The purpose of the bladder in Mason's patent is to be "an adjustable stability member." However, no mention is made by Mason of the use of a filled bladder for providing resistance to a pushing force applied by the user.

As to 2 above, it is obvious that Mason's adjustable bladder, though disclosed as a stability adjustment, will also provide an adjustment to resistance, in the manner of the applicant's bladder.

3. Even if one were motivated to combine the cited references, the combination of Lekhtman and Mason does not result in all elements of the claims. This is because nothing in Lekhtman or Mason (alone or combined with the knowledge available to one of ordinary skill in the art at the time the invention was made teaches or suggests the

recited ranges of relative energy return found in all claims of the invention. This range is critical because, as disclosed in the specification, it was objectively determined by users through empirical testing, which was overseen by a Ph.D. professor of mechanical engineering, to provide the best combination of resistance and restitution energy to the feet and legs in response to the claimed treading method.

As to 3 above, though the specific ranges are not disclosed, it is obvious given the adjustability of Lekhtman's spring and Mason's bladder, that the claimed ranges would be achieved.

The declaration filed on 4/4/07 under 37 CFR 1.131 has been considered but is ineffective to overcome the Lekhtman and Mason references.

Conclusion

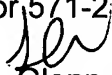
THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Glenn Richman whose telephone number is 571-272-4981. The examiner can normally be reached on Mon-Thurs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Huson can be reached on 571-272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Glenn Richman
Primary Examiner
Art Unit 3764